

BUSINESS REPORT

**MONTANA HOUSE OF REPRESENTATIVES
61st LEGISLATURE - REGULAR SESSION**

HOUSE JUDICIARY COMMITTEE

Date: Friday, February 20, 2009
Place: Capitol

Time: 8:00 am
Room: 137

BILLS and RESOLUTIONS HEARD:

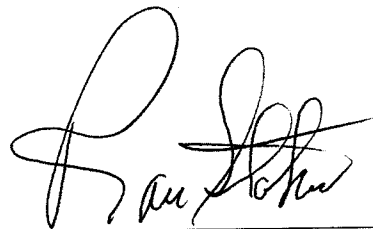
Prefix (HB, HR, HJR, SB, SR, or SJR) and number. Add Postponed (PP) when appropriate:

EXECUTIVE ACTION TAKEN:

Prefix (HB, HR, HJR, SB, SR, or SJR) and number. Enter P(pass) F(failed) DPAA (do pass as amended) BC(be concurred in) BCAA (be concurred in as amended):

HB 628 (P) HB 552 (Tabled) HB 534 (DPAA)
HB 347 (Tabled) HB 554 (Tabled) HB 574 (DPAA)
HB 503 (Tabled) HB 362 (Tabled) HB 457 (Tied)
HB 504 (P) HB 517 (DPAA)

COMMENTS:



REP. Ron Stoker, Chairman

HOUSE OF REPRESENTATIVES
Roll Call
JUDICIARY COMMITTEE

DATE: 2/20/09

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT/ EXCUSED</u>
Rep. Peterson	X	
Rep. Kottel	X	
Rep. Kerns	X	
Rep. Sands	X	
Rep. Bennett	X	
Rep. MacDonald	X	
Rep. More	X	
Rep. Ebinger	X	
Rep. Wagner		Excused
Rep. Becker	X	
Rep. Driscoll	X	
Rep. Regier	X	
Rep. McClafferty	X	
Rep. Howard	X	
Rep. Blewett	X	
Rep. Warburton	X	
Rep. Menahan	X	
Rep. Stoker	X	



HOUSE STANDING COMMITTEE REPORT

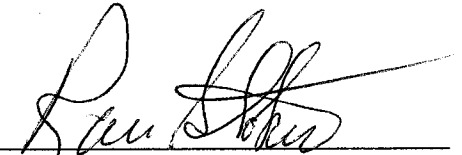
February 20, 2009

Page 1 of 1

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 628** (first reading copy – white) **do pass.**

Signed: _____


Representative Ron Stoker, Chair

- END -

Committee Vote:

Yes 18, No 0

Fiscal Note Required ☐

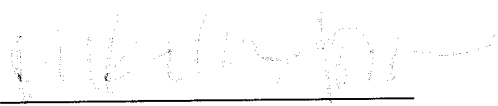
HB0628001SC.hjd

COMMITTEE FILE COPY

TABLED BILL

The HOUSE JUDICIARY COMMITTEE TABLED HB 347, HB 362, HB 503, HB 552, HB 554, by motion,
on Friday, February 20, 2009.

(For the Committee)



(Chief Clerk of the House)

(Time)



(Date)

February 20, 2009

Jennifer L. Eck, Secretary

Phone: 444-4832



HOUSE STANDING COMMITTEE REPORT

February 20, 2009

Page 1 of 1

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 504** (first reading copy – white) **do pass.**

Signed: _____

Representative Ron Stoker, Chair

- END -

Committee Vote:

Yes 10, No 8

Fiscal Note Required ☐

HB0504001SC.hjd



HOUSE STANDING COMMITTEE REPORT

February 20, 2009

Page 1 of 2

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 517** (first reading copy – white) **do pass as amended.**

Signed: _____

Ron Stoker
Representative Ron Stoker, Chair

And, that such amendments read:

1. Title, line 8.

Strike: "PROVIDING" through "MEMBERS;"

2. Page 1, line 16.

Strike: "6"

Insert: "5"

3. Page 1, line 23.

Strike: "6"

Insert: "5"

4. Page 1, line 30.

Strike: "6"

Insert: "5"

5. Page 3, line 11.

Strike: the second "or"

6. Page 3, line 12.

Following: "deceased"

Insert: "; or

(f) to the facts concerning a person injured in a critical incident and the services and care provided to or withheld from that person by an emergency service provider"

Committee Vote:

Yes 14, No 4

Fiscal Note Required ____

HB0517001SC.hjd

7. Page 3, line 14 through line 19.
Strike: section 6 in its entirety
Renumber: subsequent sections

8. Page 3, line 21.
Strike: "6"
Insert: "5"

9. Page 3, line 22.
Strike: "6"
Insert: "5"

10. Page 3, line 24 through line 26.
Strike: section 8 in its entirety
Renumber: subsequent section

- END -



HOUSE STANDING COMMITTEE REPORT

February 20, 2009

Page 1 of 3

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 534** (first reading copy – white) **do pass as amended.**

Signed: _____

Ron Stoker
Representative Ron Stoker, Chair

And, that such amendments read:

1. Title, line 6.

Strike: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

2. Page 1, line 13.

Strike: "law enforcement"

Insert: "peace"

3. Page 1, line 18.

Strike: "and"

4. Page 1, line 19.

Following: "process"

Insert: "; and"

(6) have been encouraged by the Montana supreme court in a written opinion of that court"

5. Page 1, line 21.

Strike: "7"

Insert: "6"

6. Page 1, lines 23 through 26.

Following: "means" on line 23

Strike: remainder of line 23 through "finished" on line 26

Insert: "an interview conducted by a peace officer in a place of detention for the purpose of investigating a felony if the interview is reasonably likely to elicit a response from the

Committee Vote:

Yes 14, No 4

Fiscal Note Required ____

HB0534001SC.hjd

person being interviewed that may incriminate the person being interviewed with regard to the commission of an offense"

7. Page 1, line 30.

Strike: "or other place where persons are questioned"

Insert: "office, or other structure in this state where persons are held"

8. Page 2, line 4 through line 6.

Following: "required."

Strike: remainder of line 4 through "recorded." on line 6

Insert: "Except as provided in [section 4], all custodial interrogations must be electronically recorded. The recording must contain a peace officer advising the person being interviewed of the person's Miranda rights, a recording of the interview, and a conclusion of the interview."

9. Page 2, line 8 through page 3, line 1.

Strike: sections 4 and 5 in their entirety

Renumber: subsequent sections

10. Page 3, line 3.

Following: "Exceptions"

Insert: "to recording requirement"

11. Page 3, lines 3 through 9.

Following: "the third "."

Strike: the remainder of line 3 through "jurisdiction." on line 9

Insert: "A statement made during a custodial interrogation that was not recorded as required in [section 3] is admissible if the court finds that:

(1) the statement was made during routine processing or booking of the person or during routine border inquiries;

(2) the statement was made by the accused in open court during trial, before a grand jury, or at a preliminary hearing;

(3) the statement was a spontaneous statement that was not made in response to a question;

(4) the statement was made during a custodial interrogation that was conducted in another state by peace officers of that state in compliance with the laws of that state;

(5) after having consulted with the person's lawyer or after the person has waived the person's right to have an attorney present during the custodial interrogation, the person agreed to participate in the custodial interrogation without an electronic recording being made and, if feasible, the person's agreement was electronically recorded before

the custodial interrogation began; or

(6) the peace officer in good faith failed to make an electronic recording of the custodial interrogation because the officer inadvertently failed to operate the recording equipment properly or, without the officer's knowledge, the recording equipment malfunctioned or stopped operating."

12. Page 3.

Following: line 9

Insert: "Insert: "NEW SECTION. Section 5. Cautionary jury instruction. If the prosecution offers into evidence a statement made during a custodial interrogation that was not recorded in violation of [section 3] and the court finds that the prosecution has failed to establish by a preponderance of the evidence that one of the exceptions in [section 4] applies, the judge shall, upon request of the defendant, provide the jury with a cautionary instruction noting the requirements of [section 3] and the reliability of the statement sought to be introduced compared to a statement that is electronically recorded in compliance with [section 3]."

Renumber: subsequent sections

13. Page 3, line 23.

Strike: "7"

Insert: "6"

14. Page 3, line 24.

Strike: "7"

Insert: "6"

15. Page 3, line 26.

Strike: section 9 in its entirety

- END -



HOUSE STANDING COMMITTEE REPORT

February 20, 2009

Page 1 of 1

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 574** (first reading copy – white) do pass as amended.

Signed: _____

Ron Stoker
Representative Ron Stoker, Chair

And, that such amendments read:

1. Page 1, line 13.

Strike: "knowingly or purposely"

Following: "offense"

Insert: ", with the intent or state of mind required by law for that offense,"

2. Page 1, line 17.

Strike: "knowingly or purposely"

Following: "offense"

Insert: ", with the intent or state of mind required by law for that offense,"

- END -

Committee Vote:

Yes 17, No 1

Fiscal Note Required __

HB0574001SC.hjd

HOUSE OF REPRESENTATIVES
Roll Call Vote
JUDICIARY COMMITTEE

DATE 2/20/09 BILL NO HB 503 MOTION NO. _____
 MOTION: _____

DO PASS HB 503.

<u>NAME</u>	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
Ken Peterson		X	
Deborah Kottel		X	
Krayton Kerns		X	
Diane Sands		X	
Gerald Bennett		X	
Margaret MacDonald		X	
Michael More	X		
Bob Ebinger		X	
Bob Wagner		X	X
Arlene Becker		X	
Robyn Driscoll	X		
Keith Regier		X	
Edith McClafferty		X	
David Howard		X	
Anders Blewett		X	
Wendy Warburton		X	
Mike Menahan		X	
Ron Stoker		X	

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HOUSE OF REPRESENTATIVES
Roll Call Vote
JUDICIARY COMMITTEE

DATE 2/20/09 BILL NO HB 504 MOTION NO. _____
 MOTION: _____

DO PASS HB 504.

<u>NAME</u>	<u>AYE</u>	<u>NO</u>	<u>If Proxy Vote, check here & include signed Proxy Form with minutes</u>
Ken Peterson	X		
Deborah Kottel	X		
Krayton Kerns		X	
Diane Sands	X		
Gerald Bennett		X	
Margaret MacDonald	X		
Michael More		X	
Bob Ebinger	X		
Bob Wagner		X	X
Arlene Becker	X		
Robyn Driscoll	X		
Keith Regier		X	
Edith McClafferty	X		
David Howard		X	
Anders Blewett	X		
Wendy Warburton		X	
Mike Menahan	X		
Ron Stoker		X	

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HOUSE OF REPRESENTATIVES
Roll Call Vote
JUDICIARY COMMITTEE

DATE 2/20/09 BILL NO HB 552 MOTION NO. _____
 MOTION: _____

DO PASS HB 552.

<u>NAME</u>	<u>AYE</u>	<u>NO</u>	If Proxy Vote, check here & include signed Proxy Form with minutes
Ken Peterson		X	
Deborah Kottel		X	
Krayton Kerns		X	
Diane Sands		X	
Gerald Bennett		X	
Margaret MacDonald		X	
Michael More		X	
Bob Ebinger		X	
Bob Wagner		X	X
Arlene Becker		X	
Robyn Driscoll		X	
Keith Regier		X	
Edith McClafferty		X	
David Howard		X	
Anders Blewett	X		
Wendy Warburton		X	
Mike Menahan		X	
Ron Stoker		X	

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HOUSE OF REPRESENTATIVES
Roll Call Vote
JUDICIARY COMMITTEE

DATE 2/20/09 BILL NO HB 554 MOTION NO. _____
 MOTION: _____

DO PASS HB 554 AS AMENDED.

<u>NAME</u>	<u>AYE</u>	<u>NO</u>	If Proxy Vote, check here & include signed Proxy Form with minutes
Ken Peterson	X		
Deborah Kottel		X	
Krayton Kerns	X		
Diane Sands		X	
Gerald Bennett	X		
Margaret MacDonald		X	
Michael More	X		
Bob Ebinger		X	
Bob Wagner		X	
Arlene Becker		X	
Robyn Driscoll		X	
Keith Regier	X		
Edith McClafferty		X	
David Howard	X		
Anders Blewett		X	
Wendy Warburton		X	
Mike Menahan		X	
Ron Stoker	X		

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HOUSE OF REPRESENTATIVES
Roll Call Vote
JUDICIARY COMMITTEE

DATE 2/20/09 BILL NO HB 362 MOTION NO. _____
 MOTION: _____

Do PASS HB 362 AS AMENDED.

<u>NAME</u>	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
Ken Peterson		X	
Deborah Kottel	X		
Krayton Kerns		X	
Diane Sands	X		
Gerald Bennett		X	
Margaret MacDonald	X		
Michael More		X	
Bob Ebinger	X		
Bob Wagner		X	X
Arlene Becker	X		
Robyn Driscoll	X		
Keith Regier	X		
Edith McClafferty	X		
David Howard		X	
Anders Blewett		X	
Wendy Warburton		X	
Mike Menahan		X	
Ron Stoker		X	

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HOUSE OF REPRESENTATIVES
Roll Call Vote
JUDICIARY COMMITTEE

DATE 2/20/09 BILL NO HB517 MOTION NO. _____
 MOTION: _____

DO PASS AMENDMENT HB051701.adn.

<u>NAME</u>	<u>AYE</u>	<u>NO</u>	If Proxy Vote, check here & include signed Proxy Form with minutes
Ken Peterson	X		
Deborah Kottel	X		
Krayton Kerns	X		
Diane Sands	X		
Gerald Bennett	X		
Margaret MacDonald		X	
Michael More	X		
Bob Ebinger	X		
Bob Wagner	X		
Arlene Becker		X	
Robyn Driscoll	X	X	
Keith Regier		X	
Edith McClafferty	X		
David Howard	X		
Anders Blewett	X		
Wendy Warburton	X		
Mike Menahan	X		
Ron Stoker	X		

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HOUSE OF REPRESENTATIVES
Roll Call Vote
JUDICIARY COMMITTEE

DATE 2/20/09 BILL NO HB 517 MOTION NO. _____
 MOTION: _____

DO PASS HB 517 AS AMENDED.

<u>NAME</u>	<u>AYE</u>	<u>NO</u>	If Proxy Vote, check here & include signed Proxy Form with minutes
Ken Peterson	X		
Deborah Kottel	X		
Krayton Kerns		X	
Diane Sands	X		
Gerald Bennett		X	
Margaret MacDonald	X		
Michael More		X	
Bob Ebinger	X		
Bob Wagner		X	
Arlene Becker	X		
Robyn Driscoll	X	3	
Keith Regier	X		
Edith McClafferty	X		
David Howard	X		
Anders Blewett	X		
Wendy Warburton	X		
Mike Menahan	X		
Ron Stoker	X		

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HOUSE OF REPRESENTATIVES
Roll Call Vote
JUDICIARY COMMITTEE

DATE 2/20/09 BILL NO HB 534 MOTION NO. _____
 MOTION: _____

DO PASS HB 534 AS AMENDED.

<u>NAME</u>	<u>AYE</u>	<u>NO</u>	If Proxy Vote, check here & include signed Proxy Form with minutes
Ken Peterson	X		
Deborah Kottel	X		
Krayton Kerns		X	
Diane Sands	X		
Gerald Bennett	X		
Margaret MacDonald	X		
Michael More	X		
Bob Ebinger	X		
Bob Wagner	X		
Arlene Becker	X		
Robyn Driscoll	X		
Keith Regier		X	
Edith McClafferty	X		
David Howard		X	
Anders Blewett	X		
Wendy Warburton	X		
Mike Menahan	X		
Ron Stoker		X	

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HOUSE OF REPRESENTATIVES
Roll Call Vote
JUDICIARY COMMITTEE

DATE 2/20/09 BILL NO HB 534 MOTION NO. _____

MOTION: _____
DO PASS Amendment HB053401. add.
(Rep. Menahan)

<u>NAME</u>	<u>AYE</u>	<u>NO</u>	If Proxy Vote, check here & include signed Proxy Form with minutes
Ken Peterson	X		
Deborah Kottel	X		
Krayton Kerns	X		
Diane Sands	X		
Gerald Bennett	X		
Margaret MacDonald	X		
Michael More	X		
Bob Ebinger	X		
Bob Wagner	X		
Arlene Becker	X		
Robyn Driscoll	X		
Keith Regier	X		
Edith McClafferty	X		
David Howard	X		
Anders Blewett	X		
Wendy Warburton	X		
Mike Menahan	X		
Ron Stoker	X		

HOUSE OF REPRESENTATIVES
Roll Call Vote
JUDICIARY COMMITTEE

DATE 2/20/09 BILL NO HB 457 MOTION NO. _____
 MOTION: _____

1. for HB 457 from table

NAME	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
Ken Peterson		X	
Deborah Kottel	X		
Krayton Kerns		X	
Diane Sands	X		
Gerald Bennett		X	
Margaret MacDonald	X		
Michael More		X	
Bob Ebinger	X		
Bob Wagner			
Arlene Becker	X		
Robyn Driscoll	X		
Keith Regier		X	
Edith McClafferty	X		
David Howard		X	
Anders Blewett	X		
Wendy Warburton		X	
Mike Menahan	X		
Ron Stoker		X	

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HOUSE OF REPRESENTATIVES
Roll Call Vote
JUDICIARY COMMITTEE

DATE 2/20/09 BILL NO HB 457 MOTION NO. _____

MOTION: _____

MOTION TO PASS HB045705.adn
(amendment by Rep. Kottel)

NAME	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
Ken Peterson		X	
Deborah Kottel	X		
Krayton Kerns		X	
Diane Sands	X		
Gerald Bennett	X	X	
Margaret MacDonald	X		
Michael More		X	
Bob Ebinger	X		
Bob Wagner		X	
Arlene Becker	X		
Robyn Driscoll	X		
Keith Regier		X	
Edith McClafferty	X		
David Howard		X	
Anders Blewett	X		
Wendy Warburton		X	
Mike Menahan	X		
Ron Stoker		X	

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HOUSE OF REPRESENTATIVES

Roll Call Vote

JUDICIARY COMMITTEE

DATE 2/20/09 BILL NO HB 457 MOTION NO. _____
 MOTION: _____

DO PASS HB 457 AS AMENDED.

<u>NAME</u>	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
Ken Peterson		X	
Deborah Kottel	X		
Krayton Kerns		X	
Diane Sands	X		
Gerald Bennett		X	
Margaret MacDonald	X		
Michael More		X	
Bob Ebinger	X		
Bob Wagner		X	
Arlene Becker	X		
Robyn Driscoll	X		
Keith Regier		X	
Edith McClafferty	X		
David Howard		X	
Anders Blewett	X		
Wendy Warburton		X	
Mike Menahan	X		
Ron Stoker		X	

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AUTHORIZED COMMITTEE PROXY

I request to be excused from the House Judiciary Committee

Committee because of other commitments. I desire to leave my proxy vote with:

Rep. Peterson

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

BILL/AMENDMENT AYE NO

HB 628	X	
HB 347	X	
HB 503		X
HB 503: to table	X	
HB 504		X
HB 552		X
HB 552: to table	X	
HB 362		X
HB 362: to table	X	
HB 574 be amended		X
HB 574		X

BILL/AMENDMENT AYE NO

Rep. Robert J. Wagner
(Signature)

Date 2/20/09